



CALIFORNIA STATE PERSONNEL BOARD

801 Capitol Mall • Sacramento, CA 95814

**NOTICE OF PROPOSED ADOPTION OF REGULATIONS AND STATEMENT
OF REASONS**

**California Code of Regulations
Title 2, Administration
Division 1, Administrative Personnel**

DATE: June 12, 2001

TO: ALL STATE AGENCIES, EMPLOYEE ORGANIZATIONS, AND
MEMBERS OF THE GOVERNOR'S CABINET

SUBJECT: California Department of Transportation Demonstration
Project

AUTHORITY:

Under authority established in Government Code §18701, the State Personnel Board (Board) has proposed to adopt Section 549.90 of Title 2 of the California Code of Regulations to establish a demonstration project for the California Department of Transportation (Department) to conduct competitive examinations and make appointments to positions based on a merit process open to all persons meeting specific minimum qualifications established for individual managerial classes, using the new Career Executive Assignments (CEA) selection requirements.

REFERENCE:

This regulation is adopted to implement, interpret, and/or make specific Government Code §§19600, 19605, and 19607.

PUBLIC HEARING:

Date and Time: August 7, 2001 from 1:00 p.m. to 1:30 p.m.
Place: Auditorium
801 Capitol Mall, Room 150
Sacramento, California
Purpose: To receive oral public comments about this action.

WRITTEN PUBLIC COMMENT PERIOD:

The public comment period for written comments will close August 6, 2001, at 5:00 p.m. This is to allow time for Board staff to provide copies of any written

comments to Board members for their consideration at the time of the hearing; however, any person may also submit written comments about the proposed changes at the hearing. To be considered by the Board, written comments must be delivered to the attention of Carol Ong at the State Personnel Board, P.O. Box 944201, Sacramento, CA 94244-2010, before the close of the written comment period. During the 45-day written comment period, written comments may also be e-mailed to Carol Ong at cong@spb.ca.gov or faxed to (916) 653-1280.

AVAILABILITY OF PROPOSED TEXT AND STATEMENT OF REASONS/CONTACT PERSONS:

Copies of the express terms of the proposed action, the Statement of Reasons, and all of the information upon which this proposal is based are available upon request directed to the Board's contact person. The rulemaking file is available for review during normal business hours at the State Personnel Board, 801 Capitol Mall, Sacramento, CA 95814. Please contact Carol Ong at (916) 653-1397 for additional information regarding this action. Questions regarding the substance of these regulations should be directed to the contact person.

AVAILABILITY OF CHANGES TO PROPOSED TEXT:

If any substantial and sufficiently related changes are made to the text as a result of comments received during the public comment period, the Board will make the full text of the changed regulation(s) available for at least 15 days before the date the regulation is permanently adopted.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW:

Government Code §18701 authorizes the Board to prescribe, amend and repeal regulations for the administration and enforcement of the Civil Service Act.

Government Code §§ 19600 through 19607 authorize the Board to conduct demonstration projects for a period not to exceed five (5) years, including projects which may consist of methods of: (1) establishing qualification requirements for, recruitment for, and appointment to positions; (1) classifying positions and compensating employees; (3) assigning, reassigning, or promoting employees; (4) disciplining employees; (5) providing incentives to employees, including the provision of group or individual incentive bonuses or pay; (6) establishing hours of work per day or per week; (7) involving employees, labor organizations, and employee organizations in personnel decisions; and (8) reducing overall agency staff and grade levels.

Government Code §19602 also requires publication in the California Regulatory Notice Register, notice of the board meeting or other public hearing at which the proposed adoption of the demonstration project will be considered and acted upon, at least 30 days prior to the meeting or hearing.

Existing Regulations:

Article 8, Subchapter 1, Chapter 1, of Division 1 in Title 2 of the California Code of Regulations provides procedures for examinations for civil service positions.

Article 10, Subchapter 1, Chapter 1 of Division 1 in Title 2 of the California Code of Regulations prescribes procedures for certifying and appointing successful examination competitors who are eligible for appointment to vacant civil service positions.

Article 4 and Article 5, Subchapter 2, Chapter 1 of Division 1 in Title 2 of the California Code of Regulations provides procedures for employment lists and examinations for classifications designated as CEA.

The proposed regulation establishes a demonstration project for the Department to conduct competitive examinations and make appointments to positions based on a merit process open to all persons meeting specific minimum qualifications established for individual managerial classes, utilizing the new CEA selection requirements.

IMPACT ON SMALL BUSINESSES:

The proposed regulations will not affect small businesses.

LOCAL MANDATE:

The Board has determined that the proposed action imposes no mandate upon local agencies or school districts and therefor requires no reimbursement pursuant Government Code § 17561.

COST ESTIMATES OF PROPOSED ACTION:

Costs or Savings to State Agencies:

New Section 549.90 will streamline the process for specified California Department of Transportation examinations by combining evaluating and hiring interviews, resulting in potential small though unquantifiable savings to the Department.

Impact on Housing Costs:

The proposal will not affect housing costs.

Costs or Savings in Federal Funding to the State:

No impact.

Other Non-discretionary Costs or Savings Imposed on Local Agencies:

This proposal does not impose non-discretionary costs or savings on local agencies.

Cost Impact on Representative Private Persons or Businesses:

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

ASSESSMENT OF POTENTIAL ADVERSE ECONOMIC IMPACT ON BUSINESS:

The Board has made an initial determination that the proposed action will have no significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

ASSESSMENT REGARDING THE EFFECT ON JOBS OR BUSINESSES:

The adoption of the proposed amendment will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

DETERMINATION:

The Board must determine that no reasonable alternative considered by the Board, or that has otherwise been identified and brought to the attention of the Board, would be more effective in carrying out the purposes for which this action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

FINAL STATEMENT OF REASONS:

It is anticipated that the rulemaking action will be filed with the Office of Administrative Law pursuant to Government Code §19602, under which no Final Statement of Reasons is required. If a Final Statement of Reasons is nevertheless prepared, it may be obtained from the contact person when it becomes available.

ACCESSING INFORMATION REGARDING THIS RULEMAKING FILE ON THE STATE PERSONNEL BOARD WEBSITE:

The text of the proposed amendment, the Notice of Proposed Amendment of Regulations and Statement of Reasons and, if prepared and when available for review, the Final Statement of Reasons will be on the State Personnel Board website at: www.spb.ca.gov.

STATEMENT OF REASONS:

Government Code § 18701 authorizes the Board to prescribe, amend, and repeal regulations for the administration and enforcement of the provisions of the Civil Service Act.

Government Code §§ 19600 through 19607 authorize the Board to conduct, or supervise the conduct of, demonstration projects for a period of up to five years to determine whether a specified change in personnel management policies or

procedures would result in improved state personnel management, so long as the demonstration projects do not conflict with the merit principles embodied in Article VII of the California Constitution.

Government Code Section § 19600 provides that such demonstration projects shall not be limited by lack of specific authority to take the action contemplated by any provision of the Government Code or any rule or regulation prescribed under the code which is inconsistent with the action, including those relating to the methods of establishing qualification requirements for, recruitment for, and appointment to positions; classifying positions and compensating employees; providing incentives to employees; establishing hours of work per day or per week, involving employees, labor organizations and employee organizations in personnel decisions; and reducing overall agency staff and grade levels.

Government Code § 19602 requires the Board to describe specifically any aspect of a demonstration project for which there is a lack of specific authority and to cite any provision of law, rule or regulation which, if not waived, would prohibit conducting the project or part thereof.

Following are the specific Government Code Sections, which, if not waived, would prohibit conducting the project or any part of the project as proposed:

Section 18900-requires that lists shall be established as a result of competitive examinations. A waiver is needed to allow the Department to conduct examinations without having to establish a list.

Section 18901-provides that earlier eligible lists take precedence over later eligible lists and requires an examination announcement to include a statement that the resultant eligible list will expire in one to four years. A waiver is needed to enable the Department to make appointments as a result of an alternative position-by-position selection process that does not require the establishment of an employment list.

Section 18930-requires that examinations for managerial positions be given on an open basis and that the names of the applicants who pass the examination be placed on a list and ranked in the relative order of the score received. A waiver is needed to enable the Department to conduct examinations for managerial positions without establishing a list.

Section 18930.5-provides that the Board may delegate to departments the authority to conduct examinations and create lists as a result of competitive examinations. A waiver is needed to allow the Department to conduct examinations without having to establish a list.

Section 18931-provides that the Board establish minimum qualifications for determining the fairness and qualifications of employees for each class of position. A waiver is needed to allow for the establishment of additional job-related qualifications for particular positions.

Section 18933-requires the announcement of examinations for the establishment of eligible lists. A waiver is needed to allow the Department to announce examinations without the establishment of eligible lists.

Section 18938.5-specifies that the competitor shall be notified of the results of an examination when the employment list resulting from examination has been established. A waiver is needed to allow for the establishment of notification of examination results procedures for the demonstration project even though no list is established.

Section 18950-requires that appointment to vacant positions be made from employment lists. A waiver is needed to allow appointment to vacant positions within the demonstration project without establishing a list or obtaining a certification list.

Section 19050-requires all positions to be filled by appointment in strict accordance with the laws and rules prescribed in the Civil Service Act and not otherwise. A waiver is needed to allow for a position to be filled as described in this demonstration project.

Section 19052-requires that vacancies not filled by transfer, demotion or reinstatement shall be filled by requesting certification of persons eligible for appointment. A waiver is needed to allow appointment to positions within the demonstration project without using or establishing a certification list.

Section 19054.1-provides that when an examination for a managerial position is conducted on an open and promotional basis, the names of eligibles shall be placed on one list, ranked in relative order of the examination score received, and, for the purpose of preference in certifying eligibles, the list shall be considered an eligible list. A waiver is needed to allow for the appointment of an eligible candidate to the managerial classes included in the demonstration project without establishing an eligible list.

Section 19057.1-provides for the certification of open eligible lists to be Rule of Three Ranks. A waiver is needed to allow for the appointment of an eligible to the classes included in the demonstration project without establishing an eligible list.

Section 19057.2-provides for the scoring and ranking of eligibles for managerial classes and the certification of the three highest ranks. A waiver is needed to

Subject: California Department of Transportation Demonstration Project

June 12, 2001

Page 7

allow for the examination of candidates for the managerial classes included in the demonstration project to be consistent with State Personnel Board Rule 548.40, pertaining to competitive examinations for CEA positions.

The proposed demonstration project will enable the California Department of Transportation to conduct examinations for their managerial classes on a position-specific basis providing for an improved recruitment and selection process, better job-person matches, and create a broader candidate pool for vacant positions. The traditional process for recruiting, examining and selecting civil service employees is frequently too general and insufficiently related to the skills needed for a specific vacancy. Selection will be focused on evaluating individuals against specific, job-related criteria and will culminate with an actual hire of an individual as opposed to the traditional two-part process of establishing an employment list and conducting additional hiring interviews.

Laura M. Aguilera
Assistant Executive Officer

Attachment: Text of Proposed Regulation

Regulations Governing Demonstration Projects

For this amendment, text added to the regulations is indicated by underline.

Title 2. ADMINISTRATION

Division 1. Administrative Personnel

Chapter. State Personnel Board

Subchapter 4. Demonstration Project and Performance Based Budget Pilot
Project Rules (Promulgated Under Authority of Government Code
§§11808, 18701, and 19600)

Article 8. Demonstration Project – California Department of Transportation

Section 549.90. California Department of Transportation Demonstration Project: Managerial Selection

Under State Personnel Board supervision, the California Department of Transportation (Department) shall conduct a demonstration project, pursuant to Sections 19600, 19605, and 19607 of the Government Code, affecting the examination process to select candidates for positions designated M01 and M09. During this demonstration project, the Department shall conduct examinations for the above identified classifications pursuant to the procedures in Article 4 (Section 548.30) and Article 5 (Section 548.40 through 548.52) for Career Executive Assignments, with the following exceptions:

- (a) The examination announcements specified by Section 548.41 shall specify the minimum qualifications for the position as prescribed for the specific classification.

- (b) The appointing power shall be governed by Section 171.1 in determining whether an applicant has completed the minimum time required by the experience component in the minimum qualifications, if any.
- (c) Any eligible employee may appeal to the State Personnel Board, pursuant to Section 548.49, within thirty (30) days of the date of the notification of examination results.
- (d) Examinations may be either open or promotional.

NOTE: Authority cited: Section 18701, Government Code. Reference: Sections 19600, 19605 and 19607, Government Code.